

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

10 Cr. 709 (GBD)

- against -

NOTICE OF MOTION

ISAAK KHAFIZOV,

Defendant.

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PLEASE TAKE NOTICE, that upon the Memorandum of Law annexed hereto, the points and authorities contained therein, and the proceedings had heretofore, the accused **ISAAK KHAFIZOV**, by his attorney, James Kousouros, will move this court on December 1, 2011, at the United States District Courthouse, 500 Pearl Street, New York, New York, for the following relief:

1. An Order, pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, directing the government to furnish the defendant with a Bill of Particulars as follows:
 - a. With respect to the "Scheme to Defraud" charged in Count One of the Indictment, the names and addresses of those persons whom the government claims to have been members of the conspiracy; and/or who are referred to as "others known and unknown;"
 - b. With respect to the "false" promises alleged in Paragraph 4, identify the individuals to whom the statements were made, the date and location on and at which the statements were made and the means by which the statements were made (oral or in writing);
 - c. The names and addresses of the "employees" referred in Paragraph 4;
 - d. With regard to the conspiracy set forth in Count One, set forth all of the overt acts alleged, and the co-conspirator who is alleged to have committed that act and identify others present at the time and location said acts were committed;
 - e. With regard to the allegations contained in Paragraph 9, set forth the "other things" the defendant is alleged to have told salespersons in furtherance of

the scheme to defraud;

f. With regard to the "other things" the defendant is alleged to have told salespersons in furtherance of the Scheme to Defraud, identify the individuals to whom the statements were made, the date and location on and at which the statements were made and the means by which the statements were made (oral or in writing);

g. With respect to Paragraph 9, provide the names and addresses of the AHR salespeople whom Isaak Khafizov is alleged to have instructed;

h. Identify the "numerous additional salespeople" mentioned to in Paragraph 13;

i. With regard to the allegations contained in Paragraph 14, set forth all the ways the defendant is alleged to have attempted to "cover up" the fraudulent scheme;

j. With respect to Paragraph 15, the names and addresses of the particular clients that each respective defendant met with at AHR's office in Manhattan;

k. With respect to Paragraph 15, identify the alleged misrepresentations made to each identified client, the defendant and or individual who allegedly made the misrepresentation, the date on which said representations were made and the manner in which they were delivered;

l. With respect to Paragraph 16, identify the individual whom Jaime Cassuto contacted and offered the files of AHR;

m. With regard to the overt act alleged in Paragraph 21(a), set forth the nature and substance of the "misrepresentation", the alleged victim to whom it was made and the exact place it is alleged to have been made;

n. With regard to the overt act alleged in Paragraph 21(b), set forth the other "misrepresentations" the defendant Isaak Khafizov is alleged to have made, the alleged victim to whom said misrepresentations were made and the exact place they are alleged to have been made;

o. With regard to the overt act alleged in Paragraph 21(c), set forth the AHR salesperson who made the "misrepresentation" and the nature and substance of the misrepresentations involved in said discussion.

p. Identify the alleged victims that the government will maintain were defrauded in this case.

2. An Order directing discovery and inspection pursuant to Rule 16 (c)(1)(A) and Rule 16(d)(1) of the Federal Rules of Criminal Procedure;

It is requested that the Government routinely make specific inquiries of each law enforcement agent connected to the investigation in this case for the discovery requested above. In addition, each request in each paragraph of this point is specifically made under the rubric of Brady v. Maryland, and its progeny, as well as applicable rules of discovery. As detailed, *infra*, in our view, *Brady* material must be made available to the defendants as soon as it becomes known to the Government that information or material in its possession falls within the merits of rule. If the Government finds itself with *Brady* material, but feels that production can be delayed until trial or a point closer to trial, we ask that the Court direct immediate disclosure of this fact so that the time for disclosure can be resolved by the Court.

3. An Order directing the pre-trial disclosure of all exculpatory and impeachment material;
4. An Order directing the disclosure of Interviewed Individuals and any recorded notes of said interviews under the rubric of Brady v. Maryland, 383, U.S. 83 (1963);
5. An Order compelling the Government to reveal any evidence it intends to introduce at trial, pursuant to Rule 404(b) of the Federal Rules of Evidence; and,
6. An Order directing the Government to provide notice of any expert testimony they may seek to elicit at trial;
7. An Order compelling the Government to provide a witness list prior to trial;
8. An Order permitting the Defendant to file additional motions which may arise from the requests made herein;
9. Any such further relief as to the Court may deem proper and in the interest of justice.
10. Any such further relief as to the court may deem proper in the premises.

